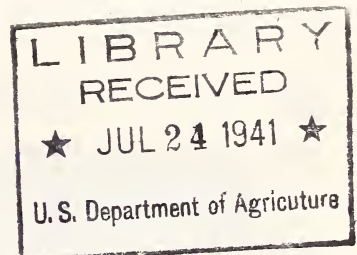


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C. N. J., F. D. C. 81-50

Issued May 1941

FEDERAL SECURITY AGENCY

FOOD AND DRUG ADMINISTRATION

NOTICES OF JUDGMENT UNDER THE FEDERAL FOOD, DRUG, AND COSMETIC ACT

[Given pursuant to section 795 of the Food, Drug, and Cosmetic Act]

31-50

COSMETICS

The cases reported herewith commenced prior to June 30, 1940, were instituted in the United States District Courts by the United States attorneys acting upon reports submitted by direction of the Secretary of Agriculture; and those commenced on and after that date were similarly instituted upon reports submitted by direction of the Federal Security Administrator.

WAYNE COY, *Acting Administrator, Federal Security Agency.*
WASHINGTON, D. C., April 11, 1941.

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COSMETICS, ADULTERATED OR ADULTERATED AND MISBRANDED

EYELASH AND EYEBROW DYES

31. *Adulteration of Andree Permanent Eye Lash and Brow Colure. U. S. v. Leroy K. Payne (Andree Laboratories). Plea of nolo contendere. Sentence of 90 days' imprisonment suspended and defendant placed on probation for 3 years. (F. D. C. No. 2085. Sample No. 47483-D.)*

This product contained paraphenylenediamine, a poisonous or deleterious substance which might have rendered it injurious to users under the conditions of use prescribed in the labeling or under such conditions of use as are customary or usual.

On July 17, 1940, the United States attorney for the Eastern District of Pennsylvania filed an information against Leroy K. Payne, trading as Andree Laboratories, at Coatesville, Pa., alleging shipment by said defendant on or about July 15, 1938, from the State of Pennsylvania into the District of Columbia of a quantity of the above-named cosmetic, which was adulterated for the reasons appearing above. The article was labeled in part: "Andree Permanent Eye Lash and Brow Colure. This Colure Contains No Lead Nor Silver."

On September 11, 1940, the defendant entered a plea of guilty; and on September 16, 1940, the court sentenced him to serve 90 days in jail. On October 17, 1940, the court amended the sentence by suspending it and placing the defendant on probation for 3 years.

32. Adulteration and misbranding of Louise Norris Lash and Brow Coloring. U. S. v. 9 Cartons of Louise Norris Lash and Brow Coloring (and 5 seizure actions against other lots of the same product). Default decrees of condemnation and destruction. (F. D. C. Nos. 2429, 2637, 2710, 3159, 3307, 3308. Sample Nos. 4570-E to 4574-E, incl., 11108-E, 16329-E, 31901-E, 31902-E, 44931-E, 44932-E, 44933-E.)

This product consisted of the following substances accompanied by appliances for their use: "Formula No. 1 Preparo" which was a solution of silver proteinate, "Formula No. 2 Protecto" which was essentially lanolin, a product called "Absorbo" or "Formula No. 3 Absorbo" which consisted of magnesium carbonate; a bottle marked "A" which contained a solution of 2, 5 toluylenediamine together with sulfite and sulfate of sodium, and a bottle marked "B" which contained a solution of hydrogen peroxide. The ingredient 2, 5 toluylenediamine might have rendered the product injurious to users under the conditions of use prescribed in the labeling or under such conditions of use as are customary or usual.

On July 24, October 10, and November 6, 1940, the United States attorneys for the Southern District of Texas, the District of Kansas, and the Northern District of Illinois filed libels against 9 cartons of Louise Norris Lash and Brow Coloring at Houston, Tex., 6 cartons at Pittsburg, Kans., and 95 cartons at Chicago, Ill., alleging that the article had been shipped by the Louise Norris Co. from Kansas City, Kans. On August 26 and 30, 1940, the United States attorney for the District of Colorado filed libels against 125 cartons of the same product at Denver, Colo., which had been shipped by the Louise Norris Co. from Kansas City, Mo. It was alleged in the libels that the article had been shipped in interstate commerce within the period from on or about March 19 to on or about August 22, 1940, and that it was adulterated and misbranded.

The article was alleged to be adulterated in that it contained a poisonous or deleterious substance, 2, 5 toluylenediamine, which might have rendered it injurious to users under the conditions of use prescribed in the labeling and under such conditions of use as are customary or usual. It was alleged to be adulterated further in that it contained a coal-tar color, namely, 2, 5 toluylenediamine, which was not from a batch that had been certified in accordance with regulations promulgated under the law.

The article was alleged to be misbranded in that the statements, (unit cartons and bottle "A" all lots) "Louise Norris Lash & Brow Coloring"; (direction circular, all lots) "Louise Norris Patented Method of Coloring Eyelashes and Brows"; (bottle label, Formula No. 2) "Protecto"; (large-sized carton unit, one lot) "This coloring known as Louise Norris Lash and Brow Coloring is now labeled in this manner to meet all requirements of law governing interstate commerce" and "Guarantee. We guarantee this package to conform with all local, state and federal regulations of the Food, Drug, and Cosmetic Act."

On August 24, October 8, and November 12, 1940, and January 28, 1941, no claimant having appeared, judgments of condemnation were entered and the product was ordered destroyed.

HAIR DYE

33. Adulteration of Farr's For Gray Hair. U. S. v. 16 Cartons and 5 Cartons of Farr's For Gray Hair. Default decree of condemnation and destruction. (F. D. C. No. 202. Sample Nos. 48923-D, 48941-D, 48942-D.)

This product, a hair dye, consisted of a liquid containing silver nitrate and tablets containing diamidophenol hydrochloride, poisonous or deleterious substances which might have rendered it injurious to users under the conditions of use prescribed in the labeling or under such conditions of use as are customary or usual. The label did not bear the caution statement required by law, namely, "Caution.—This product contains ingredients which may cause skin irritation on certain individuals and a preliminary test according to accompanying directions should first be made. This product must not be used for dyeing the eyelashes or eyebrows; to do so may cause blindness."

On March 13, 1939, the United States attorney for the District of Rhode Island filed a libel against 21 cartons of the above-named product at Providence, R. I., alleging that the article had been shipped in interstate commerce on or about October 4 and December 1, 1939, by the Brookline Chemical Co. from Boston, Mass.; and charging that it was adulterated for the reasons appearing above.

The article was labeled in part: (Cartons) "Farr's For Gray Hair No. 4 For Black Hair for "No. 2 For Medium Brown Hair" or "No. 3 For Light Brown Hair" Gives the hair a youthful, attractive appearance * * * The Brookline Chemical Co., Boston, Mass."; (bottles) "Directions.—Before beginning the use of Farr's Preparation it is necessary to remove all the natural oil from the hair,

more especially near the scalp. To do so, shampoo thoroughly with borax, soap and warm water, or better, Farr's Shampoo. Then rinse well with clean water several times to remove all the lather from the hair. Dry thoroughly. Pour a small quantity of the Preparation into a saucer and apply with a tooth brush or nail brush, thoroughly moistening the gray hair. Important.—After the hair has become fairly dry, use the sensitizing tablets, according to directions. The hair may be shampooed and curled as often as desired after the proper color has been secured. External Use Only. Keep Bottle in Box * * * Spread newspapers over porcelain bowl or table to prevent staining. Wash the skin around the hair-line with soap and water to remove any stain, also if the solution drops on the skin. Throw an old wrap over the shoulders and wear an old pair of gloves when applying the solution. If the hair is very gray it is advisable to treat a small lock of the outside hair with the Preparation for a few days before applying it all over the hair in order to see the final results"; (folder) "Farr's Sensitizing Tablets * * * After applying Farr's for Gray Hair and when the hair is fairly dry, dissolve one tablet in two tablespoonfuls of water. If it requires more than two tablespoonfuls to go over the hair, dissolve more of the tablets in the same proportions, that is, one tablet to each two tablespoonfuls of water. Be sure to be accurate about the exact amount of water to each tablet. Apply this solution with a tooth or nail brush. If the desired color is not obtained from the first treatment, again apply the Farr's for Gray Hair and this sensitizing solution, using the same quantity of both in each treatment. The six tablets may be dissolved in a six ounce bottle at one time if more convenient. These six tablets make enough sensitizing solution for one six ounce bottle of Farr's for Gray Hair. The liquid in the bottle contains the color ingredients. The tablet is merely a developer to bring out the color imparted by the Farr's for Gray Hair. For this reason never use the tablet solution unless you have first used the Farr's for Gray Hair. If the hair becomes too dark lighten it by shampooing with Borax and water or a strong soap. The next time add three tablespoonfuls of water to each tablet. The more water used with each tablet the lighter the hair will become. The hair may be shampooed and curled as often as desired after the proper color is obtained. Spread newspapers over porcelain bowl or table to prevent staining. Wash the skin around the hair line with soap and water to remove stain, also if the solution drops on the skin. Throw an old wrap over the shoulders and wear an old pair of gloves when applying the solution. External Use Only."

On August 27, 1940, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

SCALP REMEDY

34. Misbranding of L. B. Hair Oil. U. S. v. 14 $\frac{3}{4}$ Dozen Packages of L. B. Hair Oil. Default decree of condemnation and destruction. (F. D. C. No. 1043. Sample No. 70952-D.)

The labeling of this product bore false and misleading representations regarding its efficacy in the conditions indicated below. Its package was deceptive since the bottles were pinched down to approximately one-half size in the center, and therefore contained a much smaller volume of material than would be expected from the size of the carton.

On November 22, 1939, the United States attorney for the District of Utah filed a libel against 14 $\frac{3}{4}$ dozen packages of L. B. Hair Oil at Ogden, Utah, alleging that the article had been shipped in interstate commerce in part by the L. B. Laboratories, Inc., from Hollywood, Calif., on or about September 18, 1939, and in part by McKesson & Robbins, Inc., from Los Angeles, Calif. (the later shipment made about August 21, 1939); and charging that it was a misbranded cosmetic.

It was alleged in the libel that the article was misbranded in that its labeling bore representations that it was a scalp conditioner, that it contained a balanced blend of rich animal oils and toning ingredients which would give life to the hair almost instantly, that it would aid in overcoming baldness, thin and falling hair, that it contained animal oils of a very penetrating nature, that it was an "oil of life" for the hair, that it had cured baldness in its originator, that it was a blend of animal oils which would provide the vitalizing, nourishing, and restorative elements needed by the scalp to clear out clogging waste matter and dead tissue and to restore normal functions and growth and produce beautiful healthy hair again in a short time, regardless of the present condition, that many bald for 18 or 20 years testified to a regrowth in approximately 2 years, and that those bald for a shorter time claimed even quicker results, that it was effective for infant scalp trouble, would be effective to eliminate granulated eyelids and stim-

ulate new growth of lashes; that it was effective for sun or other burns and would prevent the formation of scar tissue; and bore directions that in the treatment of baldness the scalp be steamed with hot towels, that as much of the product as the scalp would absorb be applied and patted in, that the scalp itself be moved with the fingers but that vigorous rubbing should be avoided, that the application should be repeated every night until results were obtained, and that in the treatment for thin and falling hair the hair should be parted and the product applied directly to the scalp, patting it in with the palm of the hand, that vigorous rubbing should be avoided; and that if the hair continued to fall, less should be used since over application would tend to further loosen the hair; which representations and directions were false and misleading as applied to an article consisting essentially of mineral oil and saponifiable oils.

It was alleged to be misbranded further in that its container was so made, formed, and filled as to be misleading.

It was also alleged to be misbranded under the provisions of the law applicable to drugs reported in notices of judgment on drugs and devices.

On January 18, 1940, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

COSMETICS, MISBRANDED (ON ACCOUNT OF DECEPTIVE CONTAINERS)¹

DENTIFRICES AND SHAVING CREAM

35. Misbranding of dental cream. U. S. v. 55½ Dozen Packages of "Super-Pure Dental Cream with Milk of Magnesia." Default decree of condemnation and destruction. (F. D. C. No. 1167. Sample No. 78884-D.)

The tube containing this product occupied only about 26 percent of the capacity of the carton.

On December 8, 1939, the United States attorney for the Western District of Pennsylvania filed a libel against 55½ dozen packages of dental cream at Pittsburgh, Pa., alleging that the article had been shipped in interstate commerce on or about September 13, 1939, by the American Co. from Memphis, Tenn.; and charging that it was misbranded in that its container was so made, formed, or filled as to be misleading.

On January 17, 1940, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

36. Misbranding of dental cream. U. S. v. 21 Cartons of Blue Ribbon Brand Dental Cream. Default decree of condemnation and destruction. (F. D. C. No. 1951. Sample No. 82970-D.)

The carton container of this product was unnecessarily large, the tube container occupying only 27 percent of the total capacity of the carton.

On or about December 8, 1939, the United States attorney for the Northern District of Florida filed a libel against 21 cartons of dental cream at Panama City, Fla., alleging that the article had been shipped in interstate commerce on or about August 19, 1939, by Adam Bernhard from New York, N. Y.; and charging that it was misbranded in that its container was so made, formed, and filled as to be misleading.

On January 31, 1940, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

37. Misbranding of tooth paste. U. S. v. 17 Dozen Packages of Tooth Paste. Default decree of condemnation. Product ordered delivered to a charitable institution. (F. D. C. No. 976. Sample No. 51991-D.)

The tube containing this product occupied only about 22 percent of the space in the carton.

On November 14, 1939, the United States attorney for the Eastern District of Pennsylvania filed a libel against 17 dozen packages of tooth paste at Philadelphia, Pa., alleging that the article had been shipped in interstate commerce on or about July 8, 1939, by the Comfort Manufacturing Co. from Chicago, Ill.; and charging that it was misbranded in that its containers were so made, formed, or filled as to be misleading. The article was labeled in part: "Tooth Paste * * * Spearmint, distributed by Allen Products."

On April 22, 1940, the Comfort Manufacturing Co. having theretofore appeared as claimant, but said claimant having failed to appear at the trial to defend its

¹ See also No. 34.

claim, judgment of condemnation was entered and it was ordered that the product be delivered to a charitable institution.

38. Misbranding of dental cream. U. S. v. 30 Dozen Packages of Dental Cream. Default decree of condemnation and destruction. (F. D. C. No. 759. Sample No. 74106-D.)

The tube containing this article occupied only 22 percent of the capacity of the carton.

On October 18, 1939, the United States attorney for the District of Massachusetts filed a libel against 30 dozen packages of dental cream at Boston, Mass., alleging that the article had been shipped in interstate commerce on or about August 4 and 9, 1939, by the Gotham Sales Co., Inc., from New York, N. Y.; and charging that it was misbranded in that its containers were so made, formed, or filled as to be misleading. It was labeled in part: (Carton) "Large Size New Improved Honor * * * Milk of Magnesia Tooth Paste Dental Cream * * * Honor Products Company Chicago"; (tube) "Continental Sales Corp. Chicago, Ill., Distributors."

On January 29, 1940, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

39. Misbranding of tooth paste. U. S. v. 25½ Dozen Packages of Travel Tube Iodent Tooth Paste. Consent decree of condemnation and destruction. (F. D. C. No. 632. Sample No. 82413-D.)

The tube containing this product occupied only about 24 percent of the space in the carton.

On October 21, 1939, the United States attorney for the Northern District of Georgia filed a libel against 25½ dozen packages of tooth paste at Atlanta, Ga., alleging that the article had been shipped in interstate commerce on or about July 3, 1939, by the Iodent Chemical Co. from Detroit, Mich.; and charging that it was misbranded in that its containers were so made, formed, and filled as to be misleading.

On October 28, 1939, an order was entered in the district court removing the case to the Northern District of Illinois. On December 16, 1940, the Iodent Chemical Co., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered destroyed.

40. Misbranding of dental cream. U. S. v. 35 Dozen Packages of Kolynos Dental Cream. Consent decree of condemnation. Product ordered delivered to a charitable institution. (F. D. C. No. 780. Sample No. 68325-D.)

The cartons of this product were excessively large, the tube occupying only 23.6 percent of the capacity of the carton.

On October 21, 1939, the United States attorney for the Southern District of New York filed a libel (amended December 16, 1939) against 35 dozen packages of dental cream at Bronx, N. Y., alleging that the article had been shipped in interstate commerce on or about October 3, 1939, from New Haven, Conn., by the Kolynos Co.; and charging that it was misbranded in that its containers were so made, formed, or filled as to be misleading.

On September 13, 1940, the Kolynos Co., claimant, having admitted the allegations of the libel and having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered delivered to a charitable institution.

41. Misbranding of tooth paste. U. S. v. 42 Dozen Tubes of Laymon's Tooth Paste. Default decree of condemnation and destruction. (F. D. C. No. 885. Sample No. 75945-D.)

The tubes containing this product occupied approximately 20 percent of the space in the cartons.

On November 10, 1939, the United States attorney for the Southern District of Ohio filed a libel (amended December 16, 1939) against 42 dozen tubes of tooth paste at Columbus, Ohio, alleging that the article had been shipped in interstate commerce within the period from on or about September 20 to on or about October 23, 1939, by the World's Products Co. from Spencer, Ind.; and charging that it was misbranded in that its containers were so made, formed, or filled as to be misleading.

On March 19, 1940, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

42. Misbranding of tooth paste. U. S. v. 69 Dozen Packages of Pebecco Tooth Paste. Default decree of condemnation. Product ordered delivered to a charitable institution. (F. D. C. No. 829. Sample No. 68326-D.)

The tubes containing this product occupied not more than 28 percent of the capacity of the cartons.

On October 30, 1939, the United States attorney for the Eastern District of New York filed a libel against 69 dozen packages of tooth paste at Brooklyn, N. Y. On December 11, 1939, the libel was amended. It was alleged in the amended libel that the article had been shipped in interstate commerce from Bloomfield, N. J., by Lehn & Fink Products Corporation on or about October 3, 1939; and that it was misbranded in that its containers were so made, formed, or filled as to be misleading.

On August 2, 1940, the claimant having failed to file an answer and the time for filing such answer having expired, judgment of condemnation was entered and it was ordered that the product be delivered to a charitable institution on condition that the cartons be destroyed.

43. Misbranding of tooth paste. U. S. v. 89 Dozen Packages of Gibson's Tooth Paste. Default decree of condemnation. Product ordered delivered to a charitable institution. (F. D. C. No. 827. Sample No. 68329-D.)

The tubes containing this product occupied not more than 31 percent of the capacity of the cartons.

On October 27, 1939, the United States attorney for the Eastern District of New York filed a libel against 89 dozen packages of tooth paste at Brooklyn, N. Y. On December 11, 1939, an amended libel was filed. It was alleged in the amended libel that the article had been shipped in interstate commerce on or about September 18 and October 12, 1939, by the Lorr Laboratories from Paterson, N. J.; and that it was misbranded in that its containers were so made, formed, and filled as to be misleading. The article was labeled in part: "Gibson's Tooth Paste * * * Whelan Laboratories, Inc., New York, N. Y."

On January 5, 1940, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be delivered to a charitable institution on condition that the cartons be destroyed.

44. Misbranding of dental cream and dental liquid. U. S. v. 120 Dozen Packages of Colgate Ribbon Dental Cream and 4½ Gross of Cue Dental Liquid. Default decrees of condemnation. Products ordered delivered to charitable associations. (F. D. C. Nos. 813, 841. Sample Nos. 68132-D, 68327-D.)

The tubes containing the dental cream occupied not more than 27 percent of the capacity of the cartons, and the bottles containing the dental liquid occupied not more than 24 percent of the capacity of the cartons.

On October 26 and November 2, 1939, the United States attorneys for the Eastern District of New York and the Southern District of New York filed libels against 120 dozen packages of dental cream at Brooklyn, N. Y., and 4½ gross of dental liquid at New York, N. Y. On December 11, 1939, the libel filed in the Eastern District of New York was amended. It was alleged in the libels that the articles had been shipped in interstate commerce within the period from on or about September 6 to on or about October 9, 1939, by the Colgate-Palmolive-Peet Co. from Jersey City, N. J.; and that they were misbranded in that their containers were so made, formed, or filled as to be misleading.

On August 2, 1940, the claimant having failed to file an answer to the action instituted in the Eastern District of New York and having withdrawn its answer in the case instituted in the Southern District of New York, judgments of condemnation were entered and it was ordered that the products be distributed to charitable associations.

45. Misbranding of shaving cream and tooth paste. U. S. v. 19 Dozen Packages of Listerine Shaving Cream and 13 Dozen Packages of New Listerine Tooth Paste. Consent decrees of condemnation. Products ordered destroyed. (F. D. C. Nos. 728, 729. Sample Nos. 82418-D, 82419-D, 82420-D, 82426-D.)

Examination showed that the tubes containing these products occupied approximately only 22 percent of the space in the cartons and that the cartons were large enough substantially to hold two tubes. Moreover, the tubes of tooth paste contained less than the amount declared on the label.

On October 12, 1939, the United States attorney for the Northern District of Georgia filed libels against 19 dozen packages of shaving cream and 13 dozen packages of tooth paste at Atlanta, Ga., alleging that the articles had been shipped in interstate commerce within the period from on or about August 4 to Septem-

ber 7, 1939, by the Lambert Pharmacal Co. from St. Louis, Mo.; and charging that they were misbranded cosmetics.

Both products were alleged to be misbranded in that their containers were so made, formed, or filled as to be misleading. The tooth paste was alleged to be misbranded further in that the statement "Net Weight $\frac{3}{4}$ Oz. or 22 gm." was false and misleading as applied to an article that was short weight.

On November 25, 1939, the Lambert Pharmacal Co. having appeared as claimant, an order was entered removing the cases for trial to the Eastern District of Illinois. On January 22, 1940, answers to the libels were filed by the claimant, the Lambert Pharmacal Co., denying that the products were misbranded and further denying that the shaving cream was a cosmetic.

On May 20, 1940, the claimant having consented to the entry of decrees, judgments of condemnation were entered and it was ordered that the products be destroyed. The decrees contained the following provision: "It is further Ordered, Adjudged and Decreed, That this is a proceeding in rem and that this decree is without prejudice to the rights of the United States of America or of the said claimant, Lambert Pharmacal Company, in any other litigation whatever."

46. Misbranding of shaving cream. U. S. v. 42 $\frac{1}{2}$ Dozen Cartons of Giant Size Seven Star Brushless Shaving Cream. Default decree of condemnation and destruction. (F. D. C. No. 1547. Sample No. 77222-D.)

The tubes containing this product occupied approximately 22 percent of the space in the carton.

On February 29, 1940, the United States attorney for the District of Maryland filed a libel against 42 $\frac{1}{2}$ dozen cartons of shaving cream at Baltimore, Md., alleging that the article had been shipped in interstate commerce on or about September 7, 1939, by the Royal Sundries Corporation from New York, N. Y.; and charging that it was misbranded in that its containers were so made, formed, or filled as to be misleading.

On March 28, 1940, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

MISCELLANEOUS

47. Misbranding of hair remover. U. S. v. 488 Packages of Neet Cream Hair Remover. Default decree of condemnation and destruction. (F. D. C. No. 871. Sample No. 73762-D.)

The tubes containing this product occupied approximately 20 percent of the available space in the cartons.

On November 4, 1939, the United States attorney for the District of Massachusetts filed a libel against 488 packages of hair remover at Boston, Mass., alleging that the article had been shipped in interstate commerce on or about August 10 and September 13, 1939, by Affiliated Products, Inc., from Jersey City, N. J.; and charging that it was misbranded in that its containers were so made, formed, or filled as to be misleading.

On June 3, 1940, no appearance or claim having been entered, judgment of condemnation was entered and it was ordered that the product be destroyed.

48. Misbranding of depilatory cream. U. S. v. 20 Dozen Packages of Zip Depilatory Cream. Default decree of condemnation and destruction. (F. D. C. No. 1042. Sample No. 82677-D.)

The tubes containing this product occupied only about 17 percent of the capacity of the cartons.

On November 24, 1939, the United States attorney for the Southern District of Florida filed a libel against 20 dozen packages of depilatory cream at Tampa, Fla., alleging that the article had been shipped in interstate commerce on or about September 28, 1939, by Jean Jordeau, Inc., from South Orange, N. J.; and charging that it was misbranded in that its containers were so made, formed, or filled as to be misleading.

On January 31, 1940, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

49. Misbranding of eyelash cream. U. S. v. 21 Packages of Kurlene. Default decree of condemnation and destruction. (F. D. C. No. 2719. Sample No. 19032-E.)

This product was contained in a small collapsible tube which occupied only 14 percent of the capacity of the carton.

On September 3, 1940, the United States attorney for the Western District of Pennsylvania filed a libel against 21 packages of eyelash cream at Pittsburgh, Pa., alleging that the article had been shipped in interstate commerce on or about

July 31, 1940, by the Kurlash Co., Inc., from Rochester, N. Y.; and charging that it was misbranded in that its containers were so made, formed, or filled as to be misleading.

On September 30, 1940, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

50. Misbranding of deodorant creams. U. S. v. 11½ Dozen Tubes of Fresh No. 1 Deodorant and 3¼ Dozen Jars of Fresh No. 2 Non-Perspirant Vanishing Cream. Default decrees of condemnation and destruction. (F. D. C. Nos. 869, 870. Sample Nos. 63895-D, 63897-D.)

The No. 1 Deodorant was contained in a tube which occupied only 20 percent of the capacity of the carton; and the No. 2 Non-Perspirant was packed in an opal glass jar having an exceedingly thick bottom which was one-half the total height of the jar.

On November 2, 1939, the United States attorney for the Eastern District of Missouri filed libels against certain quantities of the above-named products at St. Louis, Mo. On December 2, 1939, the libels were amended to cover 11½ dozen tubes of Fresh No. 1 and 3¼ dozen jars of Fresh No. 2. It was alleged in the amended libels that the articles had been shipped in interstate commerce by the Pharma-Craft Corporation from Louisville, Ky., within the period from on or about July 18 to on or about October 27, 1939; and that they were misbranded in that their containers were so made, formed, or filled as to be misleading.

On March 19, 1940, the answers of the Pharma-Craft Corporation having been withdrawn with leave of court, and no other claimant having appeared, judgments of condemnation were entered and it was ordered that the products be destroyed.

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